United Nations A/C.3/73/L.47

General Assembly

Distr.: Limited
31 October 2018

Original: English

**Seventy-third session**

**Third Committee**

Agenda item 74 (b)

**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Azerbaijan and Brazil: draft resolution**

## Missing persons

*The General Assembly*,

*Guided* by the purposes, principles and provisions of the Charter of the United Nations,

*Guided also* by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949[1] and the Additional Protocols thereto of 1977,[2] as well as international standards of human rights, in particular the Universal Declaration of Human Rights,[3] the International Covenant on Economic, Social and Cultural Rights,[4] the International Covenant on Civil and Political Rights,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] the Convention on the Rights of the Child[6] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[7]

*Recalling* the accession by 58 States to the International Convention for the Protection of All Persons from Enforced Disappearance,[8] and calling upon States that have not yet done so to consider signing, ratifying or acceding to it as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances,

[1] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.
[2] Ibid., vol. 1125, Nos. 17512 and 17513.
[3] Resolution 217 A (III).
[4] See resolution 2200 A (XXI), annex.
[5] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[6] Ibid., vol. 1577, No. 27531.
[7] A/CONF.157/24 (Part I), chap. III.
[8] United Nations, *Treaty Series*, vol. 2716, No. 48088.

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*Recalling also* all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council,

*Recalling further* General Assembly resolution 71/201 of 19 December 2016 as well as all previous resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council on the right to the truth,

*Noting with deep concern* that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and international human rights law,

*Noting* that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and international human rights law, continues to have a negative impact on efforts to put an end to those conflicts and inflicts grievous suffering on the families of missing persons, and stressing in this regard the need to address the issue from, inter alia, a humanitarian and rule of law perspective,

*Expressing its concern* about the dramatic increase since 2014 in persons reported missing in connection with armed conflicts,

*Considering* that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate,

*Bearing in mind* that cases of missing persons involve conduct that may constitute criminal offences, and stressing the importance of ending impunity for violations of international humanitarian law and international human rights law with respect to missing persons,

*Cognizant* that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons, taking all appropriate measures to prevent persons from going missing, including, when appropriate, effectively investigating the conditions relating to persons going missing and determining the fate of missing persons, and for recognizing their accountability as regards implementing the relevant mechanisms, policies and laws,

*Bearing in mind* the effective search for and identification of missing persons using forensic sciences, and recognizing that great technological progress has been made in this field, including DNA forensic analysis, which can significantly assist efforts to identify missing persons and to investigate violations of international humanitarian law and international human rights law,

*Recognizing* that the establishment and effective work of competent national institutions can play a crucial role in clarifying the fate of missing persons in connection with armed conflict,

*Bearing in mind* that the question of missing persons entails consequences not only for the victims themselves, but also for their families, especially women, children and older persons, and in this regard recognizing the importance of addressing the legal situation of missing persons in connection with armed conflict and supporting their family members through national policies that include a gender perspective, as appropriate,

*Noting*, in this regard, the progress made by coordination mechanisms, established in different parts of the world, aiming at exchanging information and identifying missing persons, which have contributed to informing families of the fate and whereabouts of their missing relatives,

*Recognizing* that respect for and implementation of international humanitarian law can reduce the number of cases of missing persons in armed conflict, and in this regard stressing the importance of encouraging greater understanding of and respect for international humanitarian law,

*Stressing* the importance of measures to prevent persons from going missing in connection with armed conflict, which may include enacting national legislation, providing appropriate training for armed forces, producing and providing proper means of identification, the establishment of information bureaux, grave registration services and registers of deaths and ensuring accountability in cases of missing persons,

*Noting* the signing of the Agreement on the Status and Functions of the International Commission on Missing Persons, to establish the Commission as an international organization,

*Noting with appreciation* the ongoing international and regional efforts to address the question of missing persons and the initiatives undertaken by international and regional organizations in this field,

*Taking note* of the report of the Secretary-General,[9]

1. *Urges* States to strictly observe and to respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949[1] and, where applicable, in the Additional Protocols thereto of 1977;[2]

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with the armed conflict, to account for persons reported missing as a result of such a situation and, in cases of missing persons, to take such measures, as appropriate, in order to ensure thorough, prompt, impartial and effective investigations and the prosecution of offences linked to missing persons, consistent with their obligations under international law, with a view to full accountability;

3. *Calls upon* States to take measures to prevent persons from going missing in connection with armed conflict, including by fully implementing their obligations and commitments under relevant international law;

4. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflict;

5. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

6. *Calls upon* States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict and, to the greatest extent possible, to provide their family members, through appropriate channels, with all relevant information that they have on their fate, including their whereabouts or, if they are dead, the circumstances and cause of their death;

7. *Recognizes* the need for appropriate means of identification and for the collection, protection and management of data on missing persons and unidentified remains according to international and national legal norms and standards, and urges all concerned States to cooperate with each other and with other concerned actors working in this area by, inter alia, providing all relevant information related to missing persons, including on their fate and whereabouts;

[9] A/73/385.

8. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflict and to take appropriate measures to search for and identify those children and to reunite them with their families;

9. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

10. *Urges* States that are parties to an armed conflict to cooperate, consistent with their international obligations, in order to effectively solve cases of missing persons, including by providing mutual assistance in terms of information-sharing, victim assistance, location and identification of missing persons and recovery, identification and return of human remains and, if possible, by identifying, mapping and preserving burial sites;

11. *Invites* States to encourage interaction between competent organizations and institutions, such as national commissions on missing persons, which play a crucial role in clarifying the fate of persons missing in connection with armed conflict and providing support to the families of the missing;

12. *Urges* States, and encourages intergovernmental and non-governmental organizations, to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflict and to provide appropriate assistance, as requested by the concerned States, and welcomes in this regard the establishment and efforts of commissions and working groups on missing persons;

13. *Calls upon* States, without prejudice to their efforts to determine the fate of persons reported missing in connection with armed conflict, to take appropriate steps with regard to the legal situation of missing persons and the individual needs and accompaniment of their family members, with particular attention to the needs of women, children and older persons, in such fields as social welfare, psychological and psychosocial support, financial matters, family law and property rights;

14. *Invites* States, national institutions and, as appropriate, intergovernmental, international and non-governmental organizations to further their engagement in order to follow forensic best practices as they apply to preventing and resolving cases of missing persons in connection with armed conflict;

15. *Also invites* States, national institutions and, as appropriate, intergovernmental, international and non-governmental organizations to ensure the development and proper management of archives pertaining to missing persons and unidentified remains in connection with armed conflict, as well as access to those archives in accordance with relevant applicable laws and regulations;

16. *Stresses* the need to address the issue of missing persons as a part of peace and peacebuilding processes, with reference to all justice and rule of law mechanisms, including the judiciary, parliamentary commissions and truth-finding mechanisms, on the basis of transparency, accountability and public involvement and participation;

17. *Welcomes* the progress made in clarifying the fate of missing persons in connection with armed conflicts;

18. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflict in their forthcoming reports to the General Assembly;

19. *Requests* the Secretary-General to submit to the Human Rights Council at its relevant session and to the General Assembly at its seventy-fifth session a comprehensive report on the implementation of the present resolution, including relevant recommendations;

20. *Also requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

21. *Decides* to consider the question at its seventy-fifth session.